



"If I'm so empowered, why do I need you?"
Defining Government's Role in Internet Electronic Commerce



is a great place for



California is a great place for e-commerce companies to do business – first and foremost because California is simply a great place to do business. Combine this attractive commercial climate with public policies of specific interest to e-commerce that make sense and have kept pace, and it is no wonder that the companies leading the world into the Internet Age are at home in California.

The draw of California's outstanding people, universities, entrepreneurial spirit, and dynamic workforce, plus the beautiful weather, should not be overlooked, but high taxes, needless regulatory costs, and slothful government can easily trump them all. That was the situation California businesses faced eight years ago. Combined with a national economic downturn and the end of the Cold War, that brought with it the immense downsizing of the military's substantial spending and presence in the State, the outlook was not good for California growing new businesses.

If in recent years California had not led an effort to cut personal and business taxes, reduce costs imposed by government such as an out-of-control workers compensation system, and streamline the business permitting process, many of the State's e-commerce companies might well be based and growing elsewhere.

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These changes have been good for business, just as they have been good for the people of California. They recognized that when government focuses on business creation and growth, that yields new and higher-paying

jobs, which in turn yields personal wealth creation, which inevitably yields increased government revenues. California's official approach to the Internet has taken the same line. This stands in contrast to the mistakes of some other states which have tried to increase revenues by levying discriminatory taxes on the Internet; most are learning the error of their ways in a era when it is increasingly easy for businesses to relocate.

Beyond the overall economic benefits of a robust e-commerce industry in California, e-commerce provides a platform for increased consumer convenience, as well as lower prices that follow a substantial increase in competition. E-commerce can reduce the strain on our highways and the drivers using them, since on-line shopping can help reduce automobile trips. And, as government incorporates e-commerce into its daily operations, consumers will benefit from more convenient access to public information and services.

Another opportunity for traffic reduction flows from the fact that the same telecommunications infrastructure and Internet technologies that are being deployed for e-commerce can support telecommuting and teleservice centers. These assets can also help bring education and worker training directly into businesses and homes, making it convenient for people to pursue lifelong learning – and, in some instances, it is the only way to make it possible. In sum, each of these developments can help reduce the "administrative overhead" in people's day-to-day lives.

With all this in mind, it is not surprising that in a number of ways California has stepped up early and done the right thing for matters of particular importance to e-commerce:

◆ California's Internet Tax Freedom Act (ITFA) establishes a three-year moratorium on targeted Internet taxes within the State.¹ This follows the Governor's effort on behalf of the recently enacted federal ITFA, which he undertook against the tide within the National Governors Association. Taking the same approach, the State's tax agencies are not seeking to aggressively assert sales or income tax jurisdiction merely on the basis of a company's "electronic presence" on a server in California.²

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◆ California has adopted an open-standards regulation on digital signatures that will now enable state agencies to accept forms electronically.³ Once implemented, this initiative will help reduce costs and speed processing for businesses and government. Also, by setting an example, state agencies will promote secure electronic contracting between businesses.

◆ A number of years ago, California made confidential the registration records maintained by the Department of Motor Vehicles, while more recently the State eliminated general public access to voter registration records. These are two of the specific privacy laws that supplement the general "Information Practices Act of 1977"⁴ that governs state agencies' handling of personal data. While these changes were made to address general concerns about the privacy of data collected by government – and to further the right to privacy established in Article 1 of the State's Constitution – the fact that they are already in place means that California does not have to play "catch-up" as the public expresses increasing concerns about access to personal information over the Internet.

◆ A new state law will require all state websites that collect personal data to post privacy notices.⁵ While the privacy practices of government agencies in California are regulated by law, the posting of privacy notices will reassure the public that their privacy is being protected. This new practice by government will also set an example for businesses, while it contributes to the broader public education campaign about on-line privacy protection.

◆ As e-commerce develops, unsolicited commercial e-mail – so-called "spam" – is proliferating just as quickly. Because consumers currently have no control over spam landing in their mailboxes, they are discouraged from registering at commercial websites, using Internet discussion groups which often provide technical support for computer products, and even shopping on-line, for fear that to do so will unavoidably increase the spam headed their way. In order to disguise its electronic origins, much of the junk e-mail also makes unauthorized use of mail servers operated by companies that provide e-mail services, thereby burdening and sometimes disabling their operations. Recently passed enacted legislation in California bans the unauthorized use of mail servers⁶ and requires spam to be labeled as an advertisement and to carry an accurate return address, thereby making it easy for a consumer to block it.⁷

◆ In order to protect consumers, California has extended its general laws against false and misleading advertising to the Internet. Also, the law that requires goods ordered by phone or by mail to be shipped promptly now applies to goods bought on the Internet.⁸

California's attractiveness to business is undeniable, but it can be easily trumped by high taxes, needless regulatory costs, and slothful government.

◆ The Internet provides an important new means for delivering health care to rural areas of California. The California Medical Board, which regulates the practice of medicine in the State, has held that out-of-state doctors may provide telemedicine consultations to doctors licensed to practice here; some states prohibit such consultations. In 1997, state law was amended to explicitly exclude doctor-patient e-mail from the definition of "telemedicine".⁹ And, earlier this year, legislation was enacted allowing eyeglass prescriptions to be extended by e-mail.¹⁰ So, while out-of-state doctors may help California doctors via the Internet, and they may even follow-up with their patients via e-mail, out-of-state doctors may not provide assistance to other health care professionals, and – for better or worse – may not provide medical services directly to patients.

◆ Last year, legislation was enacted allowing state agencies to substitute, as appropriate, e-mail delivery anytime state law otherwise requires that something be sent by the US Postal Service.

◆ In 1995, California inaugurated its Internet homepage,¹¹ which provided a gateway to the handful of state agencies that had started offering information via the Internet. The homepage was well received,¹² and over the past three years an extensive list of agencies have become engaged. The breadth of information and the quality of its presentation on the Internet has increased greatly, and it is clear that California's citizens and others throughout the world are surfing to and around the State's Internet domain.

The public can access information on building contractors to confirm that they are licensed¹³ or download tax forms,¹⁴ while those who may be intimidated by search engines can read through a topical index developed by the State Librarian to help them locate information without having to know in advance what agency is in charge.¹⁵ People can also visit the website run by California's Division of Tourism, which is one of the Internet's most popular sites.¹⁶

New and expanding businesses trying to work their way through the maze of the government permitting process can find help by visiting a website recently roll-out by California's Environmental Protection Agency, the state agency responsible for business permit streamlining. The CalGOLD site¹⁷ allows a user to enter information about the business she would like to open and where in the State it will be, and the system responds with a list of state and local agencies from which permits must be obtained. Addresses and telephone numbers are provided for these agencies, as well as links to those maintaining Internet websites, and selected forms that can be downloaded.

◆ While not specifically dealing with e-commerce, in January of this year California's Supreme Court did issue an opinion of potential significance to anyone interested in providing professional services via the Internet. State law provides, "No person shall practice law in California unless the person is an active member of the State Bar."¹⁸ In *Birbrower v. Superior Court*,¹⁹ the court observed that this law "has generated numerous opinions on the meaning of 'practice law' but none on the meaning of 'in California.'" The case involved New York-based attorneys who traveled to California on several occasions to work with their California-based client regarding possible litigation, as well as to interview potential arbitrators, though much of the work for the client was performed in New York. The court held that the attorneys had violated California law, yet it also included the following statement in its opinion: "[W]e do reject the notion that a person automatically practices law 'in California' whenever that person practices California law anywhere, or 'virtually' enters the state by telephone, fax, e-mail, or satellite."

The same telecommunications infrastructure and Internet technologies that are being deployed for e-commerce can help bring education and worker training directly into businesses and homes, making it convenient for people to pursue lifelong learning – and, in some instances, it is the only way to make it possible.

Whether in law, medicine, or other professional services whose in-state practitioners are licensed by the State, the broad question raised by the capabilities of the Internet is: Can consumers be allowed direct access to professionals who are not state-licensed and yet be appropriately protected? The Council recognizes the complexity of this issue, so we are not making a recommendation that the professional services market be opened to all comers. Nevertheless, as a practical matter, it is clear to us that the provision of services to Californians by out-of-state professionals will inexorably increase along with other Internet-based commercial activities, so it is incumbent upon state regulatory bodies to tackle this challenge sooner rather than later.

Beyond the regulatory, tax, and consumer protection areas, there is still more to do to make the laws of California as open to e-commerce as they are to the various forms of commerce that preceded it. For example, though the State now has in place regulations approving the use of digital signatures, individual agencies still must establish procedures for accepting submissions electronically. These agencies – or select ones on behalf of others – must establish a system for issuing and managing digital certificates for use by state officials. These follow-through steps are essential before the state will be able to broadly engage in Internet e-commerce that entails transactions.

As has been pointed out by numerous other groups, in both the public and private sectors, California's education policy is fundamental to the ongoing strength of the State's high-tech industries, because high-tech companies need workers with high-tech skills. Certainly, this is true for e-commerce businesses.

High-tech skills are not just an issue for our colleges and universities. Indeed, the success of our elementary, middle, and high schools – that is, all schools, in all communities throughout California –

is also ultimately essential to meeting the workforce needs of e-commerce companies. To this end, the "Digital High School" initiative is bringing computers, software, and Internet access, as well as teachers trained to use them, to all 1.6 million high school students in California. Programs have been underway to wire all schools for Internet access and provide access for all students to new and refurbished computers. And, taking the step that is most important, schools are working to integrate computer technology into the students' daily curricula. After all, while proficiency with Internet tools, applications, and services is critical for the people we are looking to hire today, it is not unlikely that, when today's elementary school students graduate college, the Internet, as such, may not exist. So, Internet skills *per se* are not the goal.

The Council cannot overstate its support for a continuation of these policies that are providing increased resources for technology-based and technology-focused education.

Recommendations

- **1 – The Council recommends** that California continue its realistic approach to regulating on-line business.

During this period of rapid change, such a realistic approach means several things. First, it means that regulatory agencies should continue to refrain from subjecting online businesses to such regulatory requirements as make no sense in light of the intangible nature of electronic commerce.

Can consumers be allowed direct access to professionals who are not state-licensed and yet be appropriately protected? It is clear to us that the provision of services to Californians by out-of-state professionals will inexorably increase, so it is incumbent upon state regulatory bodies to tackle this challenge sooner rather than later.

Second, it means regulatory agencies should work with on-line industries and interested consumers to find more realistic means, which may be temporary pending the completion of the regulatory review described above, of protecting the interests of the online consuming public without unduly impeding the further development of the online businesses.

Third, this realistic approach means, to the extent new laws and regulations are promulgated, making sure that they are broad enough to cover changing circumstances. In other words, such laws and regulations should serve more to validate and enable the new technological and business advances than to prescribe specific ways in which such advances are to be carried out. The goal of any such laws and regulations should be to create a predictable legal environment for all participants in electronic commerce – without bias for or against specific technologies or channels of commerce.

One example of beneficial regulatory flexibility involves a very early form of consumer electronic commerce: ATMs (automated teller machine networks). When ATM technology was being deployed in the 1970s, the Office of the Controller of the Currency (OCC) could have held each machine to constitute a "branch bank."²⁰ This would have been a major setback, since each state has its own branch banking law, and a number of states severely limited, or even prohibited, branching at that time. Or, the OCC could have erected an almost equally immovable roadblock by beginning an elaborate administrative review. Instead, making use of the discretion granted by the federal banking regulatory framework – which is intended to focus on safety and soundness, not technology – the OCC ruled that an ATM did not constitute a branch, thereby allowing nationwide deployment.²¹

Finally, a realistic approach to any regulation of on-line businesses must be based on an understanding of the interplay between political borders, that separate states and countries, and the borderless Internet. California should exercise leadership in recognizing that its laws and regulations relating to e-commerce must, at a minimum, take cognizance of conflicting laws and regulations in other states; preferably, our state officials will seek consistency and reciprocity with other states. Additionally, while California should not sit idly, waiting for unifying federal regulations whose arrival may be some time off, it should anticipate them – and therefore avoid imposing regulations likely to be at great variance to federal rules. Otherwise, businesses will face being whipsawed. An example of the correct approach: Recent state legislation regulating unsolicited bulk e-mail – spam – which contains an explicit self-destruct provision triggered by federal legislation.²²

Government's deployment of transaction-capable e-commerce offers particularly great promise to small businesses. Today, there is time spent traveling to and from government permit offices, waiting while there, and filling out, mailing, and keeping track of paper forms. Time demands can be punishing, especially when a small business' chief income generator is the one sitting in a government office waiting for her number to be called. Government's effective use of e-commerce can help.

- **2 – We recommend** that government officials in California commence an industry-specific and agency-specific review of existing regulations to ensure that they do not discriminate against Internet-based businesses.

This review should be carried out through a dialogue between the regulators and the regulated – with full access and opportunities for input provided to interested consumers – and its purpose should be to determine which regulations, or which parts of certain regulations, are no longer meaningful when applied to the online conduct of the business affected. In some cases, this review will be simple: For example, a regulation requiring an auctioneer to post a sign of a certain size at the location of the auction clearly cannot be applied to an online auction. In other cases, the review will be more difficult to carry out: For example, should an online insurance broker be exempt from the requirement to have a physical agent within the state? Answering this question will require an analysis of how online brokerage operations differ from more traditional brokerage operations, and whether the public interests intended to be protected by the requirement of an in-state agent still need to be protected in the online context – or, alternatively, whether they can be protected in a less costly manner, recognizing that one of the reasons electronic commerce has grown so quickly is that it is much more cost efficient than traditional business.

From our survey of selected State agencies, they are all aware of the regulatory and enforcement challenges presented by burgeoning e-commerce. Officials understand that they are losing their historic ability to directly regulate businesses that are serving Californians, as well as their ability to sanction those who act improperly. Not surprisingly, businesses are proceeding in any event. For example, businesses conducting on-line auctions are not meeting the legal requirement to post an 18 inch by 24 inch sign at the entrance to the auction. Why not? Because it's impossible.

The Council does not anticipate that a review of existing laws and regulations will require extensive resources, because it appears that relatively few existing state laws impinge on e-commerce – based on anecdotal evidence – beyond the State's regulation of professionals. Nevertheless, regulations that cannot reasonably be applied in the online context – or, upon reconsideration, *should* not be applied, at least in their current form – will need to be eliminated or amended for the mutual good of Californians who are buying and selling goods and services on the Internet.

- **3 – We recommend** that government agencies in California expand their use of the Internet to provide information to the public, and that they devise and deploy applications that allow individuals and businesses to submit documents and receive responses via the Internet – with appropriate attention to privacy and security concerns.²³

Beyond the overall economic benefits of a robust e-commerce industry in California, e-commerce provides a platform for increased consumer convenience, as well as lower prices that follow a substantial increase in competition.

With but few small-scale exceptions, what state sites do not currently provide is direct interactivity – such as forms that may be filled out and submitted electronically – and this is where the greatest challenge lies. A combination of technology and privacy concerns led to the removal of the State's first on-line application that allowed people to notify the Department of Motor Vehicles of a change in address. Another impediment is the sheer size of some of the state agencies that are good candidates for using interactive e-commerce, as well as bureaucratic hurdles. Yet, it is those very

agencies that may offer the greatest opportunities for economies of scale – providing efficient operations which would save money both for taxpayers and those Californians interacting with the agencies.

Fortunately, one roadblock in the way of transactional e-commerce has been removed – as mentioned, regulations recently became final that define digital signatures and allow state agencies to accept digitally-signed documents. This has been a problem because an individual's intent to submit documents to a government agency can only be authoritatively shown by a signature. This differs from a typical consumer sales transaction on the Internet, since payment by credit card and delivery of the goods provide evidence of a legal agreement between the seller and buyer.

Now that the regulations are final, state agencies need to design and roll-out systems that allow people to actually file documents over the Internet. Even so, before the State can begin accepting such submissions in substantial numbers, the marketplace will have to develop broadly for digital certificates issued by so-called "trusted third parties" – entities that issue certificates after obtaining from a person some proof that he is who he claims to be. Such a system is essential not only for allowing the State to accept submissions, but also for communicating back with the submitter with some assurance that the communication will not be misdirected or intercepted.

It should be emphasized that government's deployment of transaction-capable e-commerce offers particularly great promise to small businesses – for whom the proverbial "government red tape" is more than an annoyance. Irrespective of the justification for various business permits, administrative overhead driven by government mandates can be punishing. There is time spent traveling to and from government permit offices, waiting while there, and filling out, mailing, and keeping track of paper forms. Each of these burdens is shared by larger businesses (and they will benefit as well), but larger businesses have certain economies of scale. For a small business – whose chief income generator may be the same person sitting in a government office waiting for her number to be called – the current burden can prove fatal. Government's effective use of e-commerce can help.

- **4 – We recommend** that California continue to fund programs aggressively that expand the integrated use of, and access to, information technology throughout California's education system.

As made clear by numerous expert study commissions, education is a building block of a sound economy, and this is especially true for high-tech businesses. While the Council did not undertake a study of this topic, we still want to make clear our support for California's ongoing investment in education.

- **5 – We recommend** that all California government websites be rated for content under existing and developing rating standards so that children, whose websurfing is being protected by filtering software, will have appropriate access to government resources.

Many parents encourage their children to learn about and from the Internet, while some children need no encouragement at all. Yet, parents know that some material that is accessible on-line is inappropriate for children, so most monitor what their children do on-line and an increasing number are using software tools to limit access. Some of software products look for "suspect" words in web pages before displaying them, while others depend on invisible content ratings.

Two rating systems are offered by the Recreational Software Advisory Council (RSACi)²⁴ and SafeSurf²⁵, both of which rely on self-ratings by website operators. Web browsers can be set to allow access only to websites that have been rated according to a parent's standards. For example, for RSACi, parents establish settings on a sliding scale for language, nudity, sex, and violence. An overall browser setting can prevent access to unrated websites. This is why we are making our recommendation that government websites in California to be rated. Otherwise, parents will not be able to use content filters in web browsers to protect their children without also blocking access to public websites.

Whether looking for general information about state programs²⁶, researching the State's history²⁷, or just collecting scenes of California's great outdoors to plan an upcoming family vacation,²⁸ boys and girls should have Internet access to their government.

This being said, there is likely information available on one or more state websites that is not be appropriate for children. Therefore, government website managers must carefully administer the rating program.

- **6 – We recommend** that state regulatory bodies consider if a combination of interstate agreements and home-state licensing and discipline of professionals could effectively replace the current model in which each state requires licensing and performs its own enforcement.

With or without permission from state regulators, professionals licensed in other states – such as attorneys and accountants – will make increasing use of the Internet to solicit business from, and perform services for, Californians. At present, because of resource constraints that likely will always exist, California regulators have no practical ability to intervene in a case involving an out-of-state provider, and the providers' home states have no established interest in protecting Californians.²⁹ If there is a need for the State to regulate certain professions, then the regulatory system should be effective. Unchanged, the current system will become increasingly less effective as e-commerce grows.

For example, in place of requiring professionals licensed out-of-state to be licensed in California in order to practice here, regulatory agencies could seek interstate agreements based on "substantial equivalency" – that is, reciprocity agreements with other states that have similar professional licensing standards and that agree to take enforcement actions against bad actors who harm Californians. Under such a "mutual aid agreement," California would agree to do the same for the other state's consumers. While states could devise and implement identical "model" licensing statutes, a "substantial equivalency" approach could prove effective.

The Council does not suggest that crafting this approach would be easy. However, we reiterate that the Internet and other new technologies will bring out-of-state professionals "to" California. The question for California's regulators is how can they best promote consumers' interests in this changing environment.

¹ The California Internet Tax Freedom Act was signed by Governor Wilson on August 24, 1998. Section 2 of the legislation amends the Revenue and Taxation Code to provide, in part:

"65004.(a) Except as provided in subdivision (b), no city, county, or city and county may impose, assess, or attempt to collect any of the following:

"(1) A tax on Internet access, Online Computer Services, or the use of Internet access or any Online Computer Services.

"(2) A bit tax or bandwidth tax.

"(3) Any discriminatory tax on Online Computer Services or Internet access.

"(b) The prohibition in subdivision (a) against the imposition of taxes shall not apply to any new or existing tax of general application, including but not limited to any sales and use tax, business license tax, or utility user tax that is imposed or assessed in a uniform and nondiscriminatory manner without regard to whether the activities or transactions taxed are conducted through the use of the Internet, Internet access, or Online Computer Services." [http://www.leginfo.ca.gov/pub/bill/asm/ab_1601-1650/ab_1614_bill_980824_chaptered.html]

² See "Read My E-Mail: No New Taxes," by Dean F. Andal, California State Board of Equalization, May 5, 1997. This paper was presented at the Symposium on Multijurisdictional Taxation of Electronic Commerce, sponsored by the International Tax Program and The Society for Law and Tax Policy, Harvard School of Law, Cambridge, MA, held on April 5, 1997. It was also reprinted in State Tax Notes Magazine, May 5, 1997 (1 State Tax Notes 1387)]

³ California Government Code, Section 16.5, <http://www.ss.ca.gov/digsig/code165.htm>; California Digital Signature Regulations, Final Text Approved By Office of Administrative Law on June 12, 1998, <http://www.ss.ca.gov/digsig/regulations.htm>.

As an amendment to the Internet Tax Freedom Act (S. 442), which, in turn, became law as part of the omnibus appropriations bill passed by Congress just before recessing for the year, Congress passed the "Government Paperwork Elimination Act" (Title III of S. 442). As with California's law, the new federal law is intended to promote transactional e-commerce between government agencies and the public (both businesses and individuals) by authorizing the use of digital signatures.

⁴ California Civil Code section 1798 et seq.

⁵ SB 1386 (Leslie) was signed by Governor Wilson on September 11, 1998. California Government Code, section 11015.5, Chapter 429 (SB 1386)

⁶ AB 1629, http://www.leginfo.ca.gov/pub/bill/asm/ab_1601-1650/ab_1629_bill_980928_chaptered.html

⁷ AB 1676, http://www.leginfo.ca.gov/pub/bill/asm/ab_1651-1700/ab_1676_bill_980928_chaptered.html

⁸ California Business and Professions Code, section 17538 (1996)

⁹ California Business and Professions Code, section 2290.5

¹⁰ California Business and Professions Code, section 2541.1

¹¹ <http://www.ca.gov>. The California Homepage was an initiative of the Governor's Council on Information Technology, which issued a series of recommendations in its 1995 report, "Getting Results", as to how the State can make effective use of technology.

¹² "Taking In the Sites; Way Out West With the Best State Web Site", *New York Times*, by Walter R. Baranger, August 21, 1995

¹³ <http://www.cslb.ca.gov/>

¹⁴ <http://www.ftb.ca.gov/geninfo/ind/forms.asp>

¹⁵ <http://www.ca.gov/s/search/topc3a-z.html>

¹⁶ <http://www.gocalif.ca.gov>

¹⁷ <http://www.calgold.ca.gov/>

¹⁸ Business & Professional Code, section 6125

¹⁹ 17 Cal.4th 119, 70 Cal.Rptr.2d 304 (1998). See *Estate of Condon* 55 Cal. App. 4th 1456, 64 Cal.Rptr.2d 789 (1997), vacated and remanded for reconsideration in light of *Birbrower*, 76 Cal. Rptr. 2d 176 (April 1998).

²⁰ Ruling that an ATM is a bank branch may seem absurd today. At that time, however, the only other place someone could do his banking was at a branch. A linear-thinking approach would have held ATMs to be simply "electronic branches. The OCC saw the opportunities presented by "shared ATMs" (i.e. networks), and ruled otherwise.

²¹ See "The Future of Shared Automatic Teller Networks in the Wake of Marine Midland Bank: A Call for Federal Legislation," by Cynthia Young Reisz, 38 Vand. L. Rev. 1621 (November 1985)

²² AB 1676, http://www.leginfo.ca.gov/pub/bill/asm/ab_1651-1700/ab_1676_bill_980928_chaptered.html

²³ This report does not include a discussion of or recommendations regarding the State's use of e-commerce for procuring goods and services. Clearly, there are abundant examples in the private sector of opportunities presented by e-commerce technology, wisely applied, to save time and money in the procurement process. However, as noted at the outset of this report, the Council did not undertake a comprehensive review of e-commerce issues affecting the state, and one of the issues not covered was procurement. Therefore, while we are not prepared to issue any specific findings or suggestions regarding procurement, we do urge state agencies to intelligently pursue the opportunities that do exist.

²⁴ <http://www.rsac.org>

²⁵ <http://www.safesurf.com>

²⁶ <http://www.ca.gov>

²⁷ <http://www.ca.gov/s/history/>

²⁸ http://ceres.ca.gov/ceres/calweb/great_outdoors.html

²⁹ Today, for example, if a California consumer is harmed by a professional who is based in Arizona but who is licensed in California, the consumer's has leverage that is derived from the fact that the professional can be disciplined in California. However, if the professional is willing to give up his practice in California, the consumer's attempt to achieve satisfaction may hit a dead end. On the other hand, if Arizona had agreed to discipline its professionals who harm Californians, then the Arizonan is likely to seek an agreement with the consumer. The other side of the bargain we are proposing is that – assuming, for this discussion, that Arizona's laws regulating this profession are "comparable" to California's – a professional licensed in Arizona would be able to practice in California without being licensed here. Nevertheless, if California's regulators were convinced that Arizona's regulators were willing and able to discipline their own, then the bargain could make sense. Furthermore, this system would not necessarily prevent California from revoking, for cause, an individual's right to do business here.